REMARKS/ARGUMENTS

Reconsideration is requested. Claims 1-10 are pending. Responsive to the Office Action of July 16, 2004, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

Independent claim 1 has been amended to recite that the boundary of the stop junction is "triangular in shape with two legs that define an angle of less than 90 degrees" (support at, for example, page 9, lines 18-27, carryover sentence from page 10 to page 11, and FIG. 6 of the original disclosure).

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

35 U.S.C. §102 Rejections:

The subject matter of claims 1-5 was rejected under 35 U.S.C. §102(b) as anticipated Naka et al., EP 803,288 (hereinafter "Naka et al.").

Naka et al., as understood, describes a device for analyzing a sample that includes a suction pressure generating means, a drawing channel, an analytical section and a bypass channel (see, for example, col. 3, lines 9-23 of Naka et al.). The device described in Naka et al. is configured such that a liquid flow resistance (X) in a portion of the drawing channel, a liquid flow resistance (Y) in the bypass channel and a liquid flow resistance in (Z) in another portion of the drawing channel has the relationship of $X > Y > Z$ (see, for example col. 3, lines 23-31 and col. 4, lines 24-29 of Naka et al.). In particular, Naka et al. teaches that a portion of the bypass channel (element 6a in FIGs. 3, 4 and 5A-5D of Naka et al.) extending from a branching point with the drawing channel (see col. 14, lines 49-55 of Naka et al) should have a relatively small diameter. The junction of the portion of the bypass channel that has a relatively small diameter (6a) and the remainder of the bypass channel (6) is nondescript in shape (see, for example, FIGs. 4 and 5A-5D of Naka et al.).

Claim 1 of the present application, as amended, recites that the second stop junction has a boundary that is "triangular in shape with two legs that define an angle of less than 90

degrees." This particular shape provides multiple unobvious benefits, including (i) the ability to predetermine the effectiveness of the stop junction by varying the length of the legs and the angle (see page 9, lines 17-22 of the disclosure) and (ii) the ability to conveniently manufacture the second stop junction using a single punching operation (see carryover sentence from page 10 to page 11 of the original disclosure). Applicant respectfully submits that the junction of bypass channel 6 and 6a depicted in Naka does not serve to describe, teach or suggest the beneficial use of a triangular stop junction as recited in amended claim 1 or the benefits thereof.

For at least the foregoing reason, Applicant submits that independent claim 1 is novel, not obvious and, therefore, allowable over Naka et al.. Since claims 2-5 depend from and further limit independent claim 1, they are allowable for at least the same reason.

35 U.S.C. §103 Rejections:

The subject matter of claims dependent 6-10 was rejected under 35 U.S.C. §103(a) as obvious over Naka et al. (EP 803,288) in view of Shartle et al., EP 974,840 (hereinafter "Shartle et al."). Shartle et al. appears to describe a fluidic diagnostic device that includes a sample port, measurement area, channel, bladder, stop junction and a bypass channel (see col. 6, line 43 through col. 7, line 18; col. 9, lines 26-33 and FIGs. 1 and 6A-6D of Shartle et al.). Shartle et al., as understood, does not cure the deficiency of Naka et al. discussed above with respect to independent claim 1. Since claims 6-10 depend from and further limit independent claim 1, they are allowable for at least the same reason.

CONCLUSION

Applicant respectfully requests that, in light of the amendments and explanations above, the Examiner reconsider and withdraw his rejections. Applicant respectfully submits that the claims are in condition for allowance. In the event that minor claim amendments are necessary to meet formal requirements, Applicant invites the Examiner to telephone the undersigned at (408) 956-4790 so that issuance can be expedited.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. LFS-105/MM) (Johnson & Johnson).

Respectfully submitted,

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